

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

\*

COMPANY DOE,

\*

Plaintiff,

vs. \* Civil No.: 11-cv-2958-AW

INEZ TENENBAUM, in her official capacity  
as Chairman of the Consumer Product Safety  
Commission, and the CONSUMER PRODUCT  
SAFETY COMMISSION \*

(UNDER SEAL)

4330 East West Highway,  
Bethesda, MD 20814 \*

Defendants.

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**PLAINTIFF'S NOTICE OF RECENT AUTHORITY IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTIVE RELIEF**

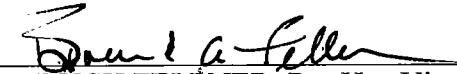
In support of Plaintiff's motion for preliminary injunctive relief, Plaintiff respectfully files this notice in order to bring the Court's attention to a recent Supreme Court decision, *Judulang v. Holder*, No. 19-694, 2011 WL 6141311 (Dec. 12, 2011) (slip op.), decided after briefing on the motion for preliminary injunctive relief. The *Judulang* opinion articulates the analytic framework for the "arbitrary and capricious" standard and the use of *Chevron* deference. The opinion supports Plaintiff's arguments that the Defendants' actions, based on "happenstance," "fortuity," and "chance," are arbitrary and capricious. See Plaintiff's Memorandum of Points and Authorities in Support of Plaintiff's Motion for

Preliminary Injunctive Relief at 17-22; Plaintiff's Reply in Support of Plaintiff's Motion for Preliminary Injunctive Relief at 3-15; *Judulang*, 2011 WL 6141311 at \*2, 9.

A copy of the *Judulang* opinion is attached hereto as Exhibit A.

Respectfully Submitted,

Dated: December 14, 2011

  
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